

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

Case No. A-5921

PETITION OF JOSE V. CHEN
(Hearing held October 8, 2003)

OPINION OF THE BOARD
(Effective date of Opinion, October 30, 2003)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioners propose to construct a one-story addition (screened porch) that requires a thirteen (13) foot variance as it is within twenty (20) feet of the established front building line. The required established front building line is thirty-three (33) feet.

The subject property is Lot 6, Block 3, Manor Woods Subdivision, located at 14600 Westbury Road, Rockville, Maryland, 20853, in the R-90 Zone (Tax Account No. 01444204).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a 11.9 x 23 foot one-story addition (screened porch) in the southern section of the property.
2. The petitioner testified that the property is a corner lot located at the intersection of Westbury Road and Levada Terrace. The petitioner testified that the screened porch would be built on an existing deck and that the porch would be the width of the existing deck, but would be shorter in length.
3. The petitioner testified that the property's buildable area is reduced by storm water easement at the rear of the property. The adjoining lot, Lot 7, also has a storm water easement in its rear yard. The petitioner testified that his lot is 10,047 square feet.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no exceptional topographical or other conditions that are not shared with the neighboring property and that the petitioner's lot is similar in shape and size with the other lots in the neighborhood. See, Exhibit No. 9 (zoning vicinity map).

The Board notes that the petitioner's lot exceeds minimum lot size for the zone and that new construction could be located in other areas of the property.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of thirteen (13) feet from the required thirty-three (33) foot established front building line for the construction of one-story addition (screened porch) is denied.

The Board adopted the following Resolution:

Board Chairman Donald H. Spence, Jr. and member Donna L. Barron were necessarily absent and did not participate in this Resolution. On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Allison Ishihara Fultz, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

Allison Ishihara Fultz
Acting Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 30th day of October, 2003.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.